IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 15738 of 2004(W)

PETITIONERS:

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1. FACT (CD) EMPLOYEES ASSOCIATION,
   AMBALAMEDU, KOCHI, REPRESENTED BY ITS
   GENERAL SECRETARY, P.RAJEEV.

2. FACT (CD) WORKERS CONGRESS (INTUC),
   AMBALAMEDU, KOCHI, REPRESENTED BY ITS
   GENERAL SECRETARY, R.SREEKUMAR.

BY ADV. SRI.P.K.IBRAHIM

RESPONDENTS:

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1. FACT LTD.,
   REPRESENTED BY ITS MANAGING DIRECTOR,
   UDYOGAMANDAL, KOCHI.

2. THE REGIONAL LABOUR COMMISSIONER,
   KAKKANAD, ERNAKULAM.

3. UNION OF INDIA,
   REPRESENTED BY ITS SECRETARY, DEPARTMENT OF
   FERTILIZERS, MINISTRY OF CHEMICALS & FERTILIZERS,
   SHASTRI BHAVAN, NEW DELHI-1.

BY ADV. SRI.V.JOHN SEBASTIAN RALPH
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SMT.PRIYA MAHESH
SMT.PRIYA MANJOORAN
SRI.JOHN VARGHESE, ASSISTANT SG
GOVT. PLEADER, SMT.M.R.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C) NO.15738/2004/W

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE LETTER DATED 17.5.04 FROM THE PETITIONERS TO THE 1ST RESPONDENT.

EXT. P2: COPY OF THE PETITION DATED 21.5.04 FROM THE PETITIONERS BEFORE THE 2ND RESPONDENT.

EXT. P3: COPY OF THE LETTER DATED 17.5.04 FROM THE PETITIONERS TO THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:

EXT. R1(A): COPY OF THE CIRCULAR DATED 14.05.2004, NO.CS/CO/101/1193.

EXT. R1(B): COPY OF THE CIRCULAR DATED 29.05.2004, NO.CS/CO/101/1220 ALONG WITH COVERING LETTER.

EXT. R1(C): COPY OF THE LETTER WRITTEN BY THE 15 EMPLOYEES DATED NIL.

/TRUE COPY/

P.A. TO JUDGE

JP

S.SIRI JAGAN, J.

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W.P.(C) No. 15738 of 2004

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Dated this the 7th day of December, 2007

JUDGMENT

The petitioners are union of workers of the 1st respondent company. Their grievance in this writ petition is that JNM Hospital and Ambalamedu Hospital, earlier directly administrated by the Company, are now sought to be leased out to other institutions without consulting recognised unions of the workmen of the 1st respondent company, including the petitioners and without obtaining sanction from the Government. They also stated that by the said action, the workers have been deprived of amenities which they were enjoying earlier, which is a negation of their rights. They, therefore, seek following directions.

"i) issue a writ of mandamus or other appropriate writ restraining the 1st Respondent from handing over J.N.M. hospital and Ambalamedu Hospital to any outside private agency without consulting the recogonised(sic) Unions including petitioners and obtaining sanctions from the government;

ii) issue a writ of mandamus commanding the 2nd Respondent to consider Ext.P2 and put in motions the conciliation proceedings forthwith;

iii) issue a writ of mandamus commanding the 3rd Respondent to seek a report on the functioning of the 1st respondent company and probe into the causes leading to the loss of the company and hold persons accountable for the same to save the institutions which is a national pride;

and

iv) pass such other writ, direction or order deemed necessary in circumstances of the case."

2. I have heard the counsel for the the petitioner as also the counsel appearing for respondents. I note that the petitioners have already set in motion the machinery under the Industrial Disputes Act by filing Ext.P2 complaint before the 2nd respondent. The issue involved being essentially an industrial dispute, I am of the opinion that the 2nd respondent should initiate further proceedings under the Industrial Disputes Act on Ext.P2. Accordingly, I dispose of this writ petition with a direction to the 2nd respondent to initiate appropriate proceedings as contemplated in the Industrial Disputes Act, on Ext.P2 complaint by the petitioners and take the same to its logical conclusion. The same shall be completed within a period of four months. If the 2nd respondent is unable to bring the parties to a settlement within that time, the 2nd respondent shall forward appropriate report to the Government for further action in the matter as contemplated under the Industrial Disputes Act.

S.SIRI JAGAN,
JUDGE

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